TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 164.

THE WEST WISCONSIN RAILWAY COMPANY AND D. A. BALDWIN, PLAINTIFFS IN ERROR,

vs.

D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, AND J. J. ROCKFORD.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF WISCONSIN.

FILED OCTOBER 16, 1874.

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1 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the judges of the circuit court of the United States for the western district of Wisconsin, greeting:

Because in the record and proceedings and also in the rendition of the judgment of a plea which is in the said circuit court before you, between the West Wisconsin Railway Company and D. A. Baldwin and D. J Foley, M. J. Foley, J. W. Hunter, and J. J. Rochford, a manifest error has happened, to the great damage of the said West Wisconsin Railway Company and D. A. Baldwin, as by their complaint appears; we, being willing that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you may have the same at Washington on the second Monday of October, A. D. 1874, in the Supreme Court to be then and there held, that, the records and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Morrison R. Waite, Chief-Justice of the said Supreme Court, this 30th day of July, in the year of our Lord one thousand eight hundred and seventy-four.

[SEAL.] F. M. STEWART,
Clerk of the Circuit Court of the United States for the Western District of Wisconsin.

H. S. ORTON,
Madison, Wis.

1½ The return to the within writ appears by the schedule hereto annexed.

The return of the circuit judge of the United States for the western district of Wisconsin.

In testimony whereof I have hereunto set my hand and affixed the seal of said circuit court, at my office, in the city of Madison, this 30th day of July, in the year of our Lord 1874, and of our Independence the ninety-ninth year.

[SEAL.] F. M. STEWART, *Clerk.*

(Indorsed:) Supreme Court of the U. S. The West Wisconsin Railway Company and D. A. Baldwin, plaintiffs in error, vs. D. J. Foley, M. J. Foley, J. W. Hunter, and J. J. Rochford, defendants in error. Writ of error. Filed July 30, 1874. F. M. Stewart, clk. H. S. Orton, Madison, Wis.

2 UNITED STATES OF AMERICA,
Western District of Wisconsin, ss:

At a stated term of the circuit court of the United States for the western district of Wisconsin, begun and held according to law, at the city of Madison, in said district, on the first Monday, being the first day of June, A. D. 1874—present and presiding, the honorable James C. Hopkins, judge—among other, the following proceedings were had, to wit:

D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, and J. J. Rochford
vs.
THE WEST WISCONSIN RAILWAY COMPANY and D. A. Baldwin.

Be it remembered that heretofore, to wit, on the 28th day of April, A. D. 1874, came the above-named plaintiffs, by Vilas and Bryant, their attorneys, and filed their præcipe for a summons on money demand, as follows:

Præcipe.

United States circuit court, western district of Wisconsin.

D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, and J. J. Rochford, plaintiffs,
vs.
THE WEST WISCONSIN RAILWAY COMPANY and D. A. Baldwin, defendants.

Demand judgment for $12,937.50, with interest thereon at the rate of seven per cent. from the 18th day of April, A. D. 1874.

3 F. M. STEWART, *Clerk.*

SIR: Issue summons in above-entitled action according to above direction, with complaint which is herewith filed, and require copy of answer to be served on us at our office in the city of Madison.

Yours, &c.,

VILAS AND BRYANT,
Plaintiffs' Attorneys.

APRIL 28TH, 1874.

Whereupon a summons issued in said-entitled cause, as follows:

Summons.

The circuit court of the United States for the western district of Wisconsin.

D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, and J. J. Rochford, plaintiffs,
vs.
THE WEST WISCONSIN RAILWAY COMPANY and D. A. Baldwin, defendants.
Summons for money demand.

The United States of America to the above-named defendants:

You are hereby summoned and required to answer the complaint of the plaintiffs in this action, which is filed in the office of the clerk of this court, at Madison, in said district, and a copy of which is herewith served upon you, and you are also required to file your answer thereto with the clerk of this court, at Madison, and to serve a copy thereof on the attorneys of the plaintiffs, whose names are subscribed hereto, at their office, in the city of Madison, Wis., within twenty days after the service of this summons upon you, exclusive of the day of such service;

and if you fail to answer the complaint as aforesaid, the plaintiffs
4 will take judgment against you for the sum of twelve thousand nine hundred and thirty-seven dollars and fifty cents, with interest thereon at the rate of seven per cent. from the 18th day of April, in the year of our Lord one thousand eight hundred and seventy-four, and the sum of two dollars and four cents protest fees, besides the costs of this action.

Witness the honorable Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, at the city of Madison, in the said western district of Wisconsin, this 28th day of April, in the year of our Lord one thousand eight hundred and seventy-four, and of the Independence of the United States the ninety-eighth.

F. M. STEWART,
Clerk.

VILAS AND BRYANT,
Attorneys.

And afterwards, to wit, on the 30th day of May, A. D. 1874, came the plaintiffs, by their said attorneys, and filed their complaint, as follows

Complaint.

Circuit court of the United States for the western district of Wisconsin.

D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, and J. J. Rochford, plaintiffs,
against
THE WEST WISCONSIN RAILWAY COMPANY and D. A. Baldwin, defendants.

WESTERN DISTRICT OF WISCONSIN, *ss:*

The plaintiffs above named, D. J. Foley, M. J. Foley, J. W. Hunter, and J. J. Rochford, by Vilas and Bryant, their attorneys, com-
5 plain against the defendants above named, the West Wisconsin Railway Company and D. A. Baldwin, and respectfully show to this court:

That they, the said plaintiffs, are (and each of them is) residents of the city of Baltimore, in the State of Maryland, and are (and each of them is) citizens of the said State of Maryland, and are partners in business, doing business as such partners, at the said city of Baltimore, under the partnership name and style of "D. J. Foley, Bro. & Company."

That the defendant, D. A. Baldwin, is a resident of the city of Hudson, in the county of St. Croix, in the said State of Wisconsin, and the western district of said State of Wisconsin, and is a citizen of said State of Wisconsin; and the defendant, the West Wisconsin Railway Company, is a corporation duly created, organized, existing, and acting by and under the laws of the State of Wisconsin, and a citizen of the State of Wisconsin, and has its principal office and place of business at the city of Hudson, in said western district of Wisconsin, and owns and operates a railroad from said city of Hudson to Elroy, in said western district.

That at the several times hereinafter mentioned the said D. A. Baldwin was, and now is, the president of the said corporation, the West Wisconsin Railway Company, and one David Humbird, hereinafter mentioned, a citizen of said State of Wisconsin, was and is the assistant treasurer of said corporation, the West Wisconsin Railway Company.

And the said plaintiffs, for a cause of action against said defendants, show:

That at the city of New York, in the State of New York, at an office of the said corporation, at No. 74 Broadway, in said city of New York, on the 18th day of December, in the year of our Lord 1873, the defendant, the West Wisconsin Railway Company, by its said president, the defendant, D. A. Baldwin, made their bill of exchange, in writing, bearing date on the said day last aforesaid, and directed it to said David Humbird, assistant treasurer as aforesaid of said West Wisconsin
6 Railway Company, at said city of Hudson, in said western district of Wisconsin, and therein and thereby required the said David Humbird, assistant treasurer as aforesaid, and the said defendant, the West Wisconsin Railway Company, to pay, on the 15th day of May, A. D. 1874, to the order of the said defendant, D. A. Baldwin, the sum of twelve thousand nine hundred and thirty-seven and $\frac{50}{100}$ dollars, for value received, and to charge the same to the account of the said defendant, the West Wisconsin Railway Company, then and there delivered the said bill of exchange to the said defendant, D. A. Baldwin, and the said defendant, D. A. Baldwin, then and there endorsed the said bill of exchange as an accommodation endorser for the benefit of said West Wisconsin Railway Company, and for a valuable consideration paid by these plaintiffs, for the use and benefit of the said West Wisconsin Railway Company, and delivered the same to these plaintiffs before the maturity thereof.

That on the 26th day of December, A. D. 1873, the said David Humbird, assistant treasurer as aforesaid, and the said defendant, the West Wisconsin Railway Company, by its said assistant treasurer, David Humbird, upon presentation thereof, accepted the said bill of exchange in writing, indorsed upon the face thereof. That at the maturity of the said bill of exchange, on the 18th day of May, A. D. 1874, the same was duly presented for payment to the said David Humbird, assistant treasurer, and to said West Wisconsin Railway Company, but payment thereof was refused, and the same was not paid, and the same was thereupon duly protested for non-payment, and due notice of such presentment, non-payment, and protest was thereupon duly given to said defendants, and each of them, and the cost and expenses of such protest to these plaintiffs was the sum of two and $\frac{34}{100}$ths dollars.

That no part of the said bill of exchange has since been paid; the plaintiffs are now the owners and holders thereof, and there remains justly due thereon, to the plaintiffs, the sum of twelve thousand nine hundred and thirty-seven dollars and fifty cents, ($12,937.50,) with interest thereon from the 18th day of May, A. D. 1874, besides the
7 costs of protest, two & $\frac{34}{100}$ths dollars.

Wherefore the plaintiffs pray judgment against said defendants for the aforesaid sum of twelve thousand nine hundred and thirty-seven dollars and fifty cents, and interest thereon from the said 18th day of May, A. D. 1874, and said sum of $2\frac{34}{100}$ dollars, and for the cost of this action.

VILAS AND BRYANT,
Attorneys for Plaintiffs, Madison, Wis.

UNTED STATES OF AMERICA,
Western District of Wisconsin, ss:

ED. E. BRYANT, being first duly sworn, swears that he is one of the attorneys for the plaintiffs in the above-entitled action, and resides at Madison, Wisconsin, in said district; that he has read and knows the

contents of the foregoing complaint, and he verily believes the same to be true.

That the reason why this verification is not made by the plaintiffs is that they, and all of them, are not within the said western district of Wisconsin, where this defendant and said plaintiffs' attorneys reside, and this action is founded upon a written instrument for the payment of money only, to wit, the bill of exchange mentioned in the complaint, which is now in deponent's possession, and that the grounds of deponent's belief are such bill of exchange and the certificate of protest thereto annexed, and a written communication from the plaintiffs relating thereto, and statements mad' by officers of said company, and common report as to its corporate existence and its officers.

ED. E. BRYANT.

Sworn to and subscribed before me this 30th day of May, A. D. 1874.

F. M. STEWART, *Clk.*

Return of summons.

Served on the within-named The West Wisconsin Railway
8 Company and D. A. Baldwin, by delivering to Orton, Keyes and Chynoweth, their solicitors, personally, a copy of this summons and complaint annexed, this 28th day of April, A. D. 1874, and said solicitors accepted written service as hereto annexed, to wit:

We hereby accept service of the summons and complaint in the above-entitled action, and hereto annexed, upon the defendants therein named, the West Wisconsin Railway Company and D. A. Baldwin, waiving all irregularity in the manner and form of such service. Copies of said summons and complaint received.

Madison, Wis., April 28, 1874.

ORTON, KEYES & CHYNOWETH,
Attorneys for Defendants.

And afterwards, to wit, on the 1st day of June, A. D. 1874, came the above-named defendants, by their said attorneys, and filed their answer, as follows:

Answer.

Circuit court of the United States for the western district of Wisconsin.

D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, and J. J. Rochford
vs.
THE WEST WISCONSIN RAILWAY COMPANY and D. A. Baldwin.

The said defendants, answering the complaint herein, say that on or about the 18th day of December, A. D. 1873, it was understood and agreed by and between the said West Wisconsin Railway Company, the said David Humbird, and the said D. A. Baldwin, and D. J. Foley, one of the said plaintiffs, that the said Foley should act as agent for them in the city of Baltimore, to pay and discharge certain interest on certain bonds of the said railway company, commonly called land-grant bonds, becoming due for the year ending the 1st day of January, 1874, which bonds were held by certain parties in and about the city of Baltimore,
9 State of Maryland, and to negotiate and use for that purpose the bill of exchange set out in said complaint.

That said bills were drawn and executed, with the endorsement of said D. A. Baldwin, and upon the treasurer of said company, to facilitate their negotiation for the purposes aforesaid, and for no other purpose; and it was understood and agreed that said bills should be paid by the said railway company, and no one else; that it was also further agreed and understood between said parties that the said D. J. Foley, on the payment of said interest, should obtain the coupons for the same and deliver them to the said railway company without delay; and these defendants are informed and believe that said D. J. Foley did obtain said coupons, but, instead of delivering them up to said company, now holds them against said company as a subsisting and outstanding indebtedness of said company, and has utterly refused to deliver the same or to have them destroyed or canceled, in violation of his said agency and agreement.

And the said defendants further say that said bills were endorsed and delivered to the said D. J. Foley for the purpose aforesaid, and not to the said plaintiffs together or jointly; and these defendants have not sufficient knowledge or information to form a belief as to whether the said plaintiffs, other than the said D. J. Foley, have any interest in said bills of exchange, or are the owners thereof, with the said D. J. Foley, and leave the same to be proved, and therefore deny that they are the owners of the same; but the said defendants, on information and belief, say that the said plaintiffs, M. J. Foley, J. W. Hunter, and J. J. Rochford, had knowledge of all of the agreements and transactions aforesaid, and further say that the said D. J. Foley has not only not delivered up to said company said coupons, but has utterly neglected to account for the same, or for the proceeds of said bills of exchange, although often requested so to do.

The defendants therefore pray judgment that said complaint be dismissed, with costs.

STATE OF NEW YORK,
County of New York, ss:

D. A. Baldwin, one of the above defendants, being duly sworn, upon his oath saith that he has read the above answer, and knows the contents thereof, and that the same is true of his own knowledge, except to such matters as are therein stated on information and belief, and as to such matters he believes it to be true.

D. A. BALDWIN.

Sworn and subscribed before me this 16th day of May, A. D. 1874.
[SEAL.] F. E. TROWBRIDGE,
A Commissioner for State of Wisconsin in New York.

Thereupon, on the 21st day of May, A. D. 1874, came the above-named plaintiffs, by their attorneys, and filed demurrer to answer, as follows:

Demurrer to answer.

Circuit court of the United States, western district of Wisconsin.

D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, and J. J. Rochford
vs.
THE WEST WISCONSIN RAILWAY COMPANY and D. A. Baldwin.

The plaintiffs above named, by Vilas and Bryant, their attorneys, de-

mur to the answer of the defendants in this action and the whole thereof, for the reason that upon its face it does not constitute a defence or counter-claim to the plaintiffs' action or complaint. Wherefore they pray judgment as in the complaint demanded.

VILAS AND BRYANT,
Attorneys for Plaintiffs.

On this day, to wit, the 2d day of June, in the June term, A. D. 1874, of said court, in the record of the proceedings thereof, before the honorable James C. Hopkins, judge, is the following entry:

Trial and verdict.

11 Circuit court of the United States for the western district of Wisconsin.

D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, and J. J. Rochford
vs.
THE WEST WISCONSIN RAILWAY COMPANY and D. A. Baldwin.

The demurrer coming on to be heard, and having been argued by counsel of the respective parties, and the court being now sufficiently advised, doth order that the said demurrer be, and the same is hereby, sustained.

And, on motion of defendants' counsel, it is ordered that defendants have leave to amend their answer by striking out of the answer the denial of presentment and protest of the bill of exchange. Whereupon a jury is ordered to come to assess the plaintiffs' damages, who came, to wit, W. A. Johnson, Orange Cook, Wm. Hudson, C. B. Helm, W. W. Wood, Daniel Morrey, L. W. Wright, Thornton Thompson, C. G. Mayers, Norman Randall, J. B. Wiser, and G. H. Stocking, twelve honest and lawful men of the district, duly empanneled and sworn and charged. And the jurors of the jury aforesaid, upon their oaths, do say that they have assessed the plaintiffs' damages at the sum of thirteen thousand fifty-two dollars and seventy-four cents, ($13,052.74.) Whereupon it is considered and adjudged by the court now here, that the said plaintiffs do have and recover of the said defendants, the West Wisconsin Railway Company and D. A. Baldwin, the said sum of thirteen thousand fifty-two dollars and seventy-four cents, so as aforesaid assessed by the jury, with thirty-six dollars and ninety-nine cents, his costs about his said suit in this behalf by him expended, and that he have execution therefor, after a period of forty days.

Afterward, on the 30th day of July, A. D. 1874, came the above-named defendants, and filed the bond on writ of error; which said bond is in the words and figures following, to wit:

12 *Bond on writ of error.*

Supreme Court of the United States.

THE WEST WISCONSIN RAILWAY COMPANY and D. A. Baldwin, plaintiffs in error,
vs.
D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, AND J. J. Rochford, defendants in error.

Know all men by these presents that we, Abram H. Baldwin, John

Comstock, A. J. Goss, and James R. Ismon, of the State of Wisconsin, are held and firmly bound unto D. J. Foley, M. J. Foley, J. W. Hunter, and J. J. Rochford, of the city of Baltimore, State of Maryland, in the sum of eighteen thousand dollars, to be paid to the said D. J. Foley, M. J. Foley, J. W. Hunter, and J. J. Rochford, their executors, or administrators, to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this 28th day of July, A. D. 1874.

Whereas the above-named West Wisconsin Railway Company and D. A. Baldwin have prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled action by the circuit court of the United States for the western district of Wisconsin:

Now, therefore, the condition of this obligation is such, that if the above-named West Wisconsin Railway Company and D. A. Baldwin shall prosecute their said writ of error to effect, and answer all costs and damages if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

13 Sealed and delivered this 28th day of July, A. D. 1874.

ABRAM H. BALDWIN. [SEAL.]
JOHN COMSTOCK. [SEAL.]
A. J. GOSS. [SEAL.]
J. R. ISMON. [SEAL.]

STATE OF WISCONSIN,
Saint Croix County, ss:

Abram H. Baldwin, John Comstock, and A. J. Goss, being duly sworn, upon their respective oaths each of them says that he is worth the sum of fifty thousand dollars in property, situated within the State of Wisconsin, over and above all just debts owing, and all exemptions by law.

ABRAM H. BALDWIN.
JOHN COMSTOCK.
A. J. GOSS.

Subscribed and sworn to before me this 28th day of July, A. D. 1874.

JA. A. ANDREWS,
Notary Public, St. Croix Co., Wis.

STATE OF WISCONSIN,
Saint Croix County, ss:

James R. Ismon, being first duly sworn, upon his oath says that he is worth the sum of forty thousand dollars in property, situated within the State of Wisconsin, over and above all just debts owing, and all exemptions by law.

J. R. ISMON.

Subscribed and sworn to before me this 28th day of July, A. D. 1874.

JA. A. ANDREWS,
Notary Public, Saint Croix Co., Wis.

STATE OF WISCONSIN,
Saint Croix County, ss:

Be it remembered that on this 29th day of July, 1874, personally appeared before me the above-named Abram H. Baldwin, John Comstock, A. J. Goss, and J. R. Ismon, to me known to be the persons whose

14 names are subscribed to and who executed the foregoing undertaking, and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein mentioned.

JA. A. ANDREWS,
Notary Public, St. Croix Co., Wis.

(Endorsed:) Approved July 30, 1874. J. C. Hopkins, judge.

On the same day, to wit, on the 30th day of July, A. D. 1874, the said defendants filed their citation on writ of error, as follows, to wit:

Citation.

UNITED STATES OF AMERICA, *ss:*

To D. J. Foley, M. J. Foley, J. W. Hunter, and J. J. Rochford, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the western district of Wisconsin, wherein the West Wisconsin Railway Company and D. A. Baldwin are plaintiffs and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable James C. Hopkins, judge of the district
15 court of the United States for the western district of Wisconsin, this 25th day of June, in the year of our Lord one thousand eight hundred and seventy-four.

J. C. HOPKINS,
District Judge of the United States for the Western District of Wisconsin.

(Endorsed:) Service admitted. Vilas & Bryant, plff's attys.

And at same time, on the 30th day of July, 1874, defendants, by their attorneys, also filed their assignment of errors, as follows, to wit:

Assignment of errors.

Supreme Court of the United States, of the October term, in the year of our Lord one thousand eight hundred and seventy-four.

THE WEST WISCONSIN RAILWAY COMPANY and D. A. Baldwin, plaintiffs in error,
vs.
D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, AND J. J. Rochford, defendants in error.

Afterward, to wit, on the second Monday of October, in the same term, before the justices of the Supreme Court of the United States at the Capitol, in the city of Washington, come the said West Wisconsin Railway Company and D. A. Baldwin, plaintiffs in error, by H. S. Orton, their attorney, and say, in the record and proceedings aforesaid there is manifest error in this, to wit, the said circuit court erred in sustaining the demurrer to the answer in said action, and in ruling and deciding that said answer did not present a good defense to said action, and

in rendering judgment herein. And the said West Wisconsin Railway Company and D. A. Baldwin pray that the judgment aforesaid
16 may be reversed, annulled, and altogether held for nought, and that they may be restored to all things which they have lost by occasion of the said judgment.

H. S. ORTON,
Attorney for Plaintiffs in Error.

And afterwards, on the 31st day of July, A. D. 1874, came the above-named plaintiffs, by their attorneys, and filed joinder in error, as follows:

Joinder in error.

Supreme Court of the United States.

WEST WISCONSIN RAILWAY COMPANY AND D. A. Baldwin, plaintiffs in error,
vs.
D. J. FOLEY, M. J. FOLEY, J. W. HUNTER, AND J. J. Rochford, defendants in error.

And afterwards, to wit, on the day of , in the year of our Lord one thousand eight hundred and seventy-four, the said D. J. Foley, M. J. Foley, J. W. Hunter, and J. J. Rochford, by Wm. F. Vilas, their attorney, freely come here into court, and say that there is no error either in the record or proceedings aforesaid, or in the giving of the judgment aforesaid, and they pray the said Supreme Court of judicature, before the justices thereof now here, may proceed to examine as well the record and proceedings aforesaid as the matters aforesaid above assigned for error, and that the judgment aforesaid may in all things be affirmed.

WM. F. VILAS,
Attorney for Defendants in Error.

17 *Certificate to transcript.*

UNITED STATES OF AMERICA,
Western District of Wisconsin, ss:

I, F. M. Stewart, clerk of the circuit court of the United States for the western district of Wisconsin, do hereby certify that I have compared the above and foregoing with the original record and proceedings now remaining on file and of record in said entitled cause, in my office, in the city of Madison, and that the same is a true and correct transcript therefrom; also a true copy of the bond on writ of error, citation, assignment of errors, and joinder in error in said cause.

In testimony whereof I have hereunto set my hand and affixed the seal of the said circuit court, at my office, in the city of Madison, in said district, this seventeenth day of August, in the year of our Lord one thousand eight hundred and seventy-four, and of the Independence of the United States the ninety-ninth.

[SEAL.] F. M. STEWART,
Clerk of the Circuit Court of the United States for the Western District of Wisconsin.

(Indorsement on cover:) No. 164. The Western Wisconsin Railway Company & D. A. Baldwin, plaintiffs in error, vs. D. J. Foley, M. J. Foley, J. W. Hunter, and J. J. Rochford. W. Wisconsin C. C. U. S. Filed 16th October, 1874.